HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI

AND

HON'BLE SRI JUSTICE BILAL NAZKI

Writ Appeal No.2209 of 2005

Dated: 29th November 2005

Between:

Smt.Harbans Kaur and four others … Appellants

And

State of Andhra Pradesh, rep. by the Secretary,
Minorities Welfare (Wakf-I) Department,
Secretariat, Hyderabad and three others. … Respondents.

Per G.S. Singhvi, CJ

This is an appeal for setting aside order dated 2.11.2005 whereby the learned Single Judge dismissed Writ Petition No.22976 of 2005 filed by the appellants questioning the legality of Notifications dated 30.5.2005 and 1.10.2005 issued by the State Government under Sections 4(1) and 6(1) of the Land Acquisition Act, 1894 (for short 'the Act') for acquisition of property bearing No.5-9-96, T.S.No.14, Block No.H, Ward No.51, situated at Nampally, Hyderabad.

We have heard the learned counsel for the appellants at length and perused the record.

In the writ petition, the appellants challenged the Notification issued under Section 4(1) of the Act on the ground that the purpose for which the land in

question was sought to be acquired viz., 'expansion of Haz House' does not constitute a 'public purpose' within the meaning of Section 3(f) of the Act. They also challenged the Notification issued under Section 6(1) on the ground that enquiry held under Section 5-A of the Act was not in consonance with the rules of natural justice and the objections filed by them were not considered objectively by the Special Deputy Collector.

After examining the record produced before him and hearing counsel for the parties and relying on the judgments of the Supreme Court, the learned Single Judge concluded that 'expansion of Haz House", which was controlled by the Wakf Board, was a "public purpose" within the meaning of Section 3(f) of the Act. The learned Single Judge further held that the report submitted by Special Deputy Collector, Land Acquisition (General), Hyderabad indicated objective application of mind by the officer concerned. On that premise, the learned Single Judge held that the acquisition of land does not suffer from any legal infirmity and the Government did not commit any illegality in accepting the report.

Learned counsel submitted that in view of the availability of vacant land within the premises of Haz House, acquisition of land for its expansion was totally unwarranted and the learned Single Judge committed a serious error by upholding the impugned notifications despite the fact that Special Deputy Collector, Land Acquisition (General), Hyderabad did not assign any reason for rejecting the objections raised by the appellants.

In our opinion, there is no merit in the arguments of the learned counsel. Undisputedly, the activities of the Wakf Board in relation to Haz House are concerned with large section of public. Therefore, acquisition of land for the purpose of expansion of Haz House was rightly treated by the learned Single Judge as a public purpose and we do not find any valid reason to take a different view.

Insofar as the report of Special Deputy Collector, Land Acquisition (General), Hyderabad is concerned, we find that the officer concerned had taken cognizance of the objections raised by the appellants and the comments offered by the Wakf Board and then concluded that there was no valid ground to drop the proceedings. In our view, the report of Special Deputy Collector

reflects application of mind by the officer concerned and the decision taken by the State Government to accept the report cannot be nullified only on the ground that the same did not contain detailed reasons.

For the reasons mentioned above, we hold that the order of the learned Single Judge does not suffer from any legal infirmity warranting interference. Hence the appeal is dismissed.

While dismissing the appeal, we deem it appropriate to take cognizance of the fact that possession of land acquired by the Government had been taken on 17.11.2005.

G.S. Singhvi, CJ

29th November, 2005

Bilal Nazki, J

svs/vtv